

enter upon a work where the board had no authority to order the improvements, the order could not be carried out.

Hon. Mr. FERGUSON—I think it throws the obligation to make all these changes upon the railway company, and if they use a bridge they have to make the bridge conform with the order of the board. If the owner of the bridge refuses his consent, and they cannot do it, they have to go to the board and the board overrules the refusal of the owner. Then, armed with the power the board gives them, they are called upon to do it, and I think we are right in retaining the clause exactly as it is, because they are given the power by the board to do it without the consent of the owner.

Hon. Mr. POWER—Does not the hon. gentleman from Marshfield think that if the owner of the land refuses to allow the railway company to alter the bridge he should be subject to some penalty?

Hon. Sir MACKENZIE BOWELL—No.

Hon. Mr. POWER—I think so decidedly; otherwise, the owner may persist in the refusal and obstruct the company, notwithstanding the order of the board.

Hon. Mr. BAKER—In that case he should be liable to a penalty.

Hon. Mr. BEIQUE—The hon. gentleman from Belleville has referred only to subsection 2, but the first paragraph of the section does not even name the company. It is worded generally. The first part of the section covers every bridge whether it be owned by the company or by some person else, such a bridge as would belong to a municipality and passing over the line of a railway, and, therefore, the order which may be given may apply to the company, or it may apply to the owner, and it is necessary that the clause should be amended.

Hon. Sir MACKENZIE BOWELL—I do not think so at all. The clause, to my mind simply makes this provision: that if it be necessary to reconstruct or alter any bridge, tunnel, erection, or structure not owned by the railway, they can do it, and if the owner of the structure refuses to give his consent, then the company applies to the board for authority to do that which

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the owner refuses to give his consent to do, and then, after giving that order, it provides that the company shall incur a penalty if it does not carry out the order. The owner has nothing to do with that.

Hon. Mr. BAKER—Supposing the owner still insists in spite of the order of the board, he is subject to a penalty.

Hon. Sir MACKENZIE BOWELL—No, he is not.

Hon. Mr. BAKER—Well, that is the intention of the clause.

Hon. Mr. SULLIVAN—He ought to be.

Hon. Sir MACKENZIE BOWELL—I take it that if the owner attempted to obstruct the company in carrying out the orders of the board, he would subject himself to the common law of the country, just the same as he would if any one was repairing a roadway and the man through whose farm it went tried to obstruct the work. We know in a case of that kind what the penalty would be. The law provides for that, but I think putting in the word 'owner' would not only be superfluous, but improper.

Hon. Mr. FERGUSON—It will weaken it if you insert the word 'owner.' Once the board gives the order, that settles it.

Hon. Mr. KERR (Toronto)—I think it must be so. If hon. gentlemen will look at subsection 2, they will see that it must be so. Subsection 2 reads as follows:

2. If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, and the owner of the same refuses to consent to such necessary changes.

Who is to make that? The owner refusing, he does not do it. It is because if it is necessary to do it, the company is the only person who can do it. It throws the obligation on the company to see that the bridges are right.

Hon. Mr. LOUGHEED—Let me point out this case: assuming the bridge is a very expensive one, and that the railway company is paying very large tolls for the use of the bridge, and it is not adapted for the public traffic or requirements, will the company be at the expense of practically reconstructing that bridge and paying the tolls which they may be subject to by either statute or contract, and have no